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HOUSE OF REPRESENTATIVES, November 29, 1864.—
Referred to special Committee on Impressments, and ordered to be
printed.

[By the CHAIR.]

MESSAGE OF THE PRESIDENT,

RICHMOND, VA., Nov. 28, 1864.

To the House of Representatives :

In response to your resolution of the 19th instant, I herewith transmit a communication from the Secretary of war, relative to the recent impressment of slaves, by his order, in the State of Virginia.

JEFFERSON DAVIS.

COMMUNICATION FROM SECRETARY OF WAR.

WAR DEPARTMENT, C. S. A., }
Richmond, Nov. 28, 1864: }

To the President of the Confederate States :

SIR: The resolution of the House of Representatives, requesting the President to inform the House by what authority of law the War Department is now conducting an impressment of slaves in Virginia, without regard to the State law on that subject, which has been referred by you to this Department, has been received.

On the 17th of September last, General Lee, commanding the army of Northern Virginia, made known to this Department "that there was an immediate necessity for the services of five thousand negroes for thirty days. That the necessity was sufficiently urgent to justify calling for this labor at once; that he could not, consistently with the exigencies of the service, detail officers and soldiers from the army for this duty;" and said, "that if the agents of the bureau of conscription can be employed for this purpose, I am prepared to give them such authority as I consistently may. They can consult with the local authorities, and arrange for the execution of the impressment in such manner, as to be least injurious to the public service. I enclose a tabular statement of the quota and from the counties from which it is proposed to draw the negroes.

The existence of an urgent necessity for an immediate supply of

the labor required was unquestionable. In conformity to the request of the commanding General, the agency of the officers of conscription was directed for the impressment according to the schedule furnished by him, with orders to confine the impressment to slaves between eighteen and fifty years of age, and that not more than one slave out of every five on any farm should be taken, and where there were only three slaves of ages required, those should be exempt.

The question, whether a commanding general, in the absence of any law upon the subject, under the pressure of an immediate and urgent necessity, be authorized to impress slaves for service with his army, has been much debated in this country, and a diversity of opinion has been expressed upon it. In a discussion in the Congress of the then United States of a claim for compensation for the loss of a slave so impressed for the defence of a city in a state of siege, Judge P. P. Barbour, of Virginia, said: "The slave is an item of property, is not a member of the body politic; he owes no service on his own account to the Government. The Government knows him only as the property of his master, and it cannot get at him only in two ways; the one is by the ordinary process of taxation, and the other is by the extraordinary exertion of power, under a pressing public emergency. * * * * If the officer wantonly or unnecessarily invade the property of a citizen, he is a trespasser. But then this must be shown, and, in the present case, not so much as a doubt has been suggested of the existence of such a case of necessity. If the necessity exists, then that case has arisen in which the Government may take private property for the public use."

The power of a general in the field to impress private property for the public use, in a case of an immediate necessity, has, since the discussion referred to, been judicially determined by the Supreme Court of the United States to be legitimate.

The fifth section of the impressment act of the 16th of February last, amendatory of the laws regulating impressments, seems to recognise this power as belonging to the commanding General, for it prohibits the impressment of a very large class of slaves, "except in case of urgent necessity, and upon the order of the General commanding, the department" in which the class referred to may be employed. It was to this class of slaves that General Lee had reference in his letter, when he speaks of communicating the authority that resides in him. This Department, in ordering the impressments under the circumstances before mentioned, in conformity to the request of the commanding General, and according to his plan, had some reference to the powers that belonged to him, under the conditions that have been disclosed.

It also made reference to the powers with which it was clothed by the acts of Congress.

The fourth section of the act of Congress of the 26th of March, 1863, authorized the Secretary of War to take private property for the public use, whenever he shall deem it to be necessary, by reason of the impracticability of procuring the same by contract, so as to accumulate supplies for the army, or for the good of the service, in

any locality, by general order, through the instrumentality of subordinate officers. The ninth section of the same act directed that when slaves are impressed by the Confederate Government to labor on fortifications, or other public works, the impressment should be made according to the rules and regulations provided in the laws of the States where they are impressed; and, in the absence of such law, in accordance with such rules and regulations as the Secretary of War shall, from time to time, prescribe, not inconsistent with the terms of the act.

This act of Congress does not require the Department to employ the agency of State officers to secure the labor of slaves. The power to make the impressment in the fourth section of the act above quoted, gives to the Secretary of War the power to impress any property liable to impressment through the agency of the officers of the Confederate States, and in the ninth section of the act, the terms used are, "that when slaves are impressed by the Confederate Government," "the impressment shall be made by said Government" in accordance with such rules and regulations as have been provided in the laws of the State wherein they are impressed, if there be such laws. In an act passed by the State of Virginia, 3d October, 1862, the Governor of the State was authorized and required to call into the Confederate States service slaves for labor on fortifications and public works. The act provided for the equalizing of the burden, as nearly as may be, among the several counties, cities and towns of the Commonwealth; for the hire to be paid; the obligations to be incurred by the Confederate Government; and for the manner of the collection and delivery of the slaves. This act is not an act for the impressment of slaves, but a mode for drafting them for the public service. The execution of the act was dependent, in a great measure, upon the action of the county court, and experience has fully shown that its operation is dilatory, and that it is not suitable for an immediate and urgent necessity such as existed in this case.

The only provision in this act that authorises the impressment of slaves is conditional upon the event of the neglect or refusal of the county or corporation court to perform the duty imposed upon them. In that event the Governor is authorized, with the aid of certain specified officers of the county to make an impressment of the slaves demanded from the county by agents of his selection.

The Department has usually collected slaves for work upon fortifications by a requisition upon the Governor, according to the terms of this act. It is equitable in its provisions, and the agencies employed are probably the least obnoxious of any other for the accomplishment of the object proposed, that object being the assertion of an onerous and repulsive claim for service. But the existing circumstances did not admit of the delay necessarily involved in the use of its machinery. The Department has not supposed that this act was incorporated into the legislation of the Confederate States, by the ninth section of the act of March, 1863; but it has, in its general order under that section of the act, and its special order in the present instance, preserved its leading features in reference to the apportion-

ment of the labor, the compensation to be made, the obligations to be assumed to the owner in case of the loss or injury of the property, and the length of time for which the slaves are to be continued in the service.

Having thus shown the authority of law under which the Department is now conducting the impressment of slaves in Virginia, the answer to the resolution of the House of Representatives is

Respectfully submitted,

JAMES A. SEDDON,
Secretary of War.

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